

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2051 of 2005

For Approval and Signature:

HON'BLE MR.JUSTICE M.S.SHAH Sd/-

and

HON'BLE MR.JUSTICE D.H.WAGHELA Sd/-

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
 2. To be referred to the Reporter or not? : YES
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the concerned Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals? : NO
- 1 & 2 YES; 3 to 5 NO

MEGHMANI ORGANICS LTD

Versus

GOVERNMENT OF GUJARAT

Appearance:

1. Special Civil Application No. 2051 of 2005
MR MIHIR JOSHI with MS AMRITA M THAKORE for Petitioner
MS MITA S PANCHAL AGP for Respondent No. 1
MR GM JOSHI for Respondent No. 2
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CORAM : HON'BLE MR.JUSTICE M.S.SHAH
and
HON'BLE MR.JUSTICE D.H.WAGHELA

Date of decision: 20/04/2005

C.A.V. JUDGEMENT

(Per: HON'BLE MR.JUSTICE D.H.WAGHELA for the Court)

1. By this petition under Article 226 of the Constitution, the petitioner Company has prayed for a declaration to the effect that the action of respondent No.1-Government of Gujarat, Central Medical Stores Organization ("CMSO" for short) of considering the bid of respondent No.2 for purchase of insecticides is illegal and to issue a writ commanding respondent No.1 to forebear from considering or processing the bid of respondent No.2 for supply of Alphacypermethrin 5% WP under Tender Enquiry No.CMSO/D-360/QTY.Cont./2004-05. Thus, the petitioner, which is one of the bidders for supplying the said insecticide, has called into question the consideration of the technical bid of respondent No.2 mainly on the grounds that respondent No.2 was not fulfilling the mandatory conditions of submitting authenticated documents for proof of supply as required under the tender and has not manufactured or marketed the required quantity of the product. It is averred and asserted that respondent No.1 could not deviate from the tender conditions since the requirement of manufacturing and marketing certain quantity of the goods was mandatory and without fulfilling the same, consideration of their tender would be arbitrary and illegal.

2. At the request of the learned counsel, the petition was taken up for final hearing at the admission stage.

3. The relevant facts of the matter are that the CMSO published Tender Notice No.D-07/2004-05 inviting tender for purchase of three items on quantity contract basis wherein item No.360.02 was "Alphacypermethrin 5% WP with I.S.I. mark or confirming to BIS standard/WHO Specification and registered with Central Insecticides Board." The Special Notes of the Tender Enquiry, inter alia, prescribed the following conditions:-

"4. The bidder must have manufactured and supplied satisfactorily at least 50 per cent of the quantity as per requirement under the present tender of the goods as specified in the schedule of requirement in any of the previous three years in Gujarat State or elsewhere for Malaria Control Programme/activities in India or abroad. Authenticated document for proof of supply must be submitted.

5. The bidder or the manufacturer whose

product is offered by the bidder must be in the insecticide business including agriculture/crop protection application for at least three years and must have manufactured and supplied satisfactorily the goods as specified in the Schedule of Requirements to the extent of at least 80% of the quantity indicated under Schedule of Requirements against each schedule in any one of the last few years from the date of bid opening. There shall be no adverse report of the goods offered for supply during previous two years from the date of bid opening.

6. The bidder must give names of customers who have been supplied the product quoted for.

PART-I of the GENERAL CONDITIONS contained the following other conditions which are relevant for the present purpose:

"12. Marketing Data & Proof of manufacturing Experience:

(a) All the manufacturers for quoted items must have minimum preceding three years experience for manufacture (after issuance of permission by concerned licensing authority) and marketing of the quoted products on the date of opening of technical bid.

(b) For manufacturer having preceding one year manufacturing and marketing experience under valid licence to use ISI mark or valid WHO specification certificate for the quoted product on the date of opening of technical bid will be considered.

(i) xxx xxx xxx

(ii) xxx xxx xxx

(iii) xxx xxx xxx

(iv) Director reserves the right to disqualify any offer if the total manufactured quantity shown in the affidavit is apparently insufficient in relation to the approximate purchase of last

R.C./A.T.

- (v) The year-wise quantity manufactured and marketed and its sales value must also be shown strictly as per the format in affidavit (Annexure-II).
- (vi) In addition to affidavit for production and sales, the tenderer has to furnish C.A. Certificate (in original) showing year-wise production and sales for last three years/two years/one year (whichever is applicable) for the item quoted, otherwise offer will be rejected.
- (vii) In case where item is required with ISI Mark/WHO specification, manufacturing and selling experience of product having ISI mark/WHO specification will only be considered. But, in such a case, certified copies of licence to use ISI mark/WHO specification for last one year as well as latest and valid licence are to be submitted with tender. The latest licence should be valid during the period of rate contract/A.T.

15. No conditional offer/quotation will be accepted. No variation in the terms and conditions of the tender, including deviation from standards/ specifications/ terms of supply will be accepted.

16. xxx xxx xxx

17. The legible and certified copies of the following documents MUST be attached/ annexed to Part II:

- (a) xxx xxx xxx
- (b) xxx xxx xxx
- (c) xxx xxx xxx
- (d) xxx xxx xxx

(e) I.S.I. certificate/ WHO specification (whichever is applicable).

(f) Prescribed affidavit showing year-wise production/sales for preceding three/ two/ one years (As the case may be) for items quoted (in original).

- (g) xxx xxx xxx
- (h) xxx xxx xxx
- (i) xxx xxx xxx
- (j) xxx xxx xxx
- (k) xxx xxx xxx

(l) C.A.Certificate in original showing
year-wise production and Sales of quoted
items for preceding three years/two
years/one year (whichever is applicable).

18. The documents specified in general
condition No.17 of Part I must strictly
be as per the format wherever the format
is prescribed in tender form or as
prescribed by concerned authority viz.
Central Insecticides Board, WHO, Sales
Tax etc. and must be valid on the date
of opening of tender.....

24. The tender is liable for rejection due to
any of the reasons mentioned below:

1-6 xxx xxx xxx

7. Non-submission of required
documents as shown in para 17
above.

8-14 xxx xxx xxx

25. (i) Director, CMSO, Gandhinagar
reserves the right to consider or
reject any or all tenders or
close the tender enquiry without
assigning any reason, at any
time, at any stage.

(ii) xxx xxx xxx

26. The Director, CMSO, Gandhinagar does not
pledge himself to accept the lowest or
any tender and also reserves the right to
accept the whole or any part of the
tender against any item at his
discretion. The tender will be accepted
if Director, CMSO, is satisfied about the
production, sale, quoted price, technical
details, utility of products and past
performance of tenderer.

45. Fall Clause:

Attention of the bidders is invited to the higher/lower price certificate and all the bidders/A.T/R.C. Holder will have to abide by the terms strictly in accordance with those mentioned in that certificate. It must be distinctly understood that in case of supply to any institution/department at price lower than the contracted price within the period specified in the certificate will immediately invite the reduction in the rates of the contract.

Breach of any clause of the certificate will be viewed seriously and action will be taken against the R.C./A.T.Holder which may include forfeiture of E.M.D./S.D., termination of the contract and disqualification from participating in future business."

4. The petitioner appears to have made representations dated 3.1.2005 and 7.1.2005 to the Director, CMSO and the Principal Secretary, Health and Family Welfare to voice the grievance that respondent No.2 was not qualified and eligible for awarding the contract for the reasons that Conditions No.4 and 5 of the Special Notes and some of the Additional Requirements quoted hereinabove were not met by respondent No.2. It is the case of the petitioner that respondent No.2 was not holding a valid WHO Specification Certificate for the quoted product as required under Clause 12 (b) of the tender document and hence its case does not fall under Clause 12 (b), but it falls under Clause 12 (a) according to which, all manufacturers of the quoted items must have minimum preceding three years experience of manufacturing and marketing the product on the date of opening of the technical bid. It was vehemently argued that 50% of the specified quantity of the product was required to have been supplied by the tenderer for malaria control programme during any of the preceding years and mere sale of the product was not sufficient compliance. It was also submitted that respondent No.2 did not possess a valid WHO Specification Certificate as required under the tender conditions.

5. By filing two affidavits, the Deputy Director, CMSO has submitted that the work of purchase of Alphacypermethrin 5% WP was entrusted to CMSO, which is the central purchasing authority for the Department of

Health of the State Government. The final decision is taken by the Secretary, Purchase Committee, consisting of Senior Secretaries to the Government of Gujarat, including the Principal Secretary, Health and Family Welfare Department, the Principal Secretary, Finance Department and the Secretary, Industries and Mines Department. That earlier the petitioner had, in response to the tender floated on 8.10.2004 for the same product, quoted the rate of Rs.4,08,283/- per metric ton and offered 34,1125 kgs. of the product free on purchase of 30,000 kgs. of it. Therefore, the effective rate offered by the petitioner was Rs.1,91,000/- per metric ton; whereas in response to the present tender, the petitioner had quoted the rate of Rs.3,96,000/- per metric ton. Out of six tenders, four were by the parties who were found to be technically qualified. Respondent No.2 had quoted the lowest price of Rs.1,48,500/= per metric ton and in view of huge difference in the prices quoted in the first and the second lowest offers, a marginal deficit of 240 kgs. in fulfillment of the manufacturing and supplying requirement was considered by the Secretary, Purchase Committee which was conferred with the authority to relax the terms and conditions under the "Manual of Office Procedure for Purchase of Stores by the Government Departments". That Committee had, after due deliberation, taken a decision on 15.2.2005 to waive the shortfall of supply in favour of respondent No.2 as, by accepting the price bid of respondent No.2, the State Government would save approximately Rs.1.26 crores. As per the Government Resolution dated 6.11.2003, if the second lowest bidder was ready to lower his offer to the level of the lowest bidder, then 50% of the quantity are required to be purchased from such bidder which in the facts of the present case is the petitioner company.

5.1 It is specifically averred on behalf of respondent No.1 that respondent No.2 has produced valid WHO Specification Certificate for the quoted product and, therefore, as per Clause (b) of Condition No.12, it was required to have manufacturing and marketing experience of only preceding one year. That was also in consonance with the instructions issued by the State Government vide Government Resolution dated 6.11.2003. Thus, in short, respondent No.2 was fulfilling the criteria of supplying the product and was technically qualified, according to respondent No.1.

5.2 It is also averred that, as per the tender conditions, the tenderer cannot quote price higher than the price quoted by him for the same product in any

government/semi government/charitable trust organisation/ institution within a period of 180 days preceding the last date of submission of the tender. As per the details submitted by the petitioner, they had quoted much lower rates for the same product in the tender of Rites Ltd., New Delhi on 28.12.2004.

5.3 It is also stated that respondent No.2 had submitted WHO specification compliance report of a reputed laboratory along with the tender and had also submitted their own analysis report along with the test report dated 4.10.2004 of SGS India Pvt. Ltd., Laboratory Services, Chennai for Alphacypermethrin 5% WP stating that, "the submitted sample complies as per WHO specification WHO/IS/98.1.2 R1 with respect to above parameters". And that the petitioner itself had, in an earlier tender for the same product, submitted manufacturing licence issued by the Director of Quality Assurance (DGQA), DGS&D, for Alphacypermethrin 5% WP as per WHO Specification and the criterion of experience of one year was applied.

6. Respondent No.2 has, by filing an affidavit of its Product Manager, submitted that, as against their quoted price of Rs.1,48,600/= per metric ton inclusive of all taxes, the petitioner had offered the rate of Rs.3,96,000/= + 4% GST per metric ton, which came to more than Rs.4,10,000/= per metric ton. That the requirement under the present tender of manufacture and supply of 50% of 55.30 MT of the product would come to 27,650 kgs. As against that, the certificates submitted by them showed that 20 MTs. of the product was sold to Azerbaijan Republic on 22.12.2003, on 14.9.2004, 10 MTs. was sold to Sudan Gezira Board through Transnile for Trade and Agriculture, Sudan and 6000 kgs. was sold to Royal Government of Bhutan through M/s. Olive International, Kolkata. In addition to that, the company had supplied 2000 kgs. to Orissa Tribal Development Society, 5000 kgs. to Maitree Yuva Sansad of Orissa through Mani Pharmaceuticals, Cuttack, 5000 kgs. to Pestology Combines Pvt. Ltd., Bangalore, 5000 kgs. to Gowda Pest Control Pvt. Ltd., Bangalore through Cyfen Chemicals, Bangalore and 1000 kgs. to Information International, Orissa; thus bringing the total to 54,000 kgs. It is asserted that the product is used only for the purpose of malaria control programme or activity and, therefore, the requirement of Condition No.4 was fulfilled. That in the year 2004, the company had manufactured approximately 54 MTs of the product as per the list annexed to the petition as Annexure R-2 which exceeded 80% of the tender requirement which came to 44,240 kgs. It is averred that

respondent No.2 has manufactured and supplied satisfactorily the goods specified in the Schedule of Requirement to the extent of more than 80% in the year preceding the date of opening of the bid and, in fact, no relaxation of the condition, even to the marginal extent of 240 kgs., was required to consider its technical bid. It is also submitted that since respondent No.2 was in the business for three years, there was no need for "WHO Specification Certificate". However, the company had produced the necessary certificate issued by a laboratory of international repute and, therefore, all the criteria were duly fulfilled. The certificate for commencement of business dated 24.2.1993, the licence to manufacture insecticides and the manufacturing licence renewed for the period from 1.2.2004 to 31.12.2005 for manufacturing Alphacypermethrin 5% WP were relied upon. It was submitted that the product, "Alphacypermethrin Wettable Powder" was the subject-matter of interim specification "WHO/IS/98.1.2 R1 Revised August 2000" and those specifications were met by respondent No.2 as per the test report dated 4.10.2004 of SGS India Pvt. Ltd. which is a laboratory accredited in accordance with the Standard ISO/IEC-17025-1999 by the National Accreditation Board for Testing and Calibration Laboratories, Department of Science and Technology, India. Thus, the product in question offered by respondent No.2 was conforming to the WHO Specification, according to the submission.

7. In view of the contentions raised by the petitioner, it is necessary to first resolve the controversy regarding WHO Specification Certificate which appears to be arising from it being shown in the General Conditions as alternative to licence to use ISI mark. Otherwise it was absolutely clear from bare reading of the first tender notice clearly stating the name of item as "Alphacypermethrin 5% WP with ISI mark or confirming to BIS Standard/WHO specification", that the product was either required to bear ISI mark or conform to WHO specification. Harmoniously reading Clause 12 (b) of the General Conditions in that light, it would clearly suggest that what was envisaged in the tender enquiry was manufacturing and marketing experience under a valid licence to use ISI mark or experience of one year of manufacturing and marketing the product which was conforming to WHO specification and the claim of such conformation must be supported by a valid certificate for the quoted product. Although the aforesaid Clause 12 (b) is not happily worded, the time frame of "preceding one year" obviously relates to "on the date of opening of technical bid" and cannot be reasonably attached to a

"valid WHO specification certificate". On the other hand, it appears from the material and correspondence emanating from the World Health Organization itself and relied upon by the counsel on both sides that WHO itself does not issue any "WHO Specification Certificate"; it only evaluates formulations against its criteria and publishes the interim or final specifications. At best, it authorizes use of the statement to the effect that the product has been successfully evaluated for certain specific purposes. As shown by other examples, in some cases, it is certified by WHO that a product, for which WHO specifications are available on WHO homepage on the Internet, has successfully passed the WHO Pesticides Evaluation Scheme (WHOPES) for the specified applications and, again, the producer is thereby only authorized to use the statement that the product has been successfully evaluated by the WHOPES for specific applications and that the product has been manufactured in accordance with the relevant WHO specification. However, it is expressly stipulated by WHO in such cases that the aforesaid statements are not to be used on any commercial literature. By no stretch, such certificate or certification appears to have been envisaged or required by the tender enquiry in question. Therefore, it would be absurd to suggest that Clause 12 (b) required certification by the World Health Organization in lieu of a valid licence to use ISI mark, or that the certificate certifying the product to be confirming to WHO specification to be in respect of the entire production of the bidder in the year preceding the date of opening of technical bid. In the nature of things, a valid certificate has to be from an independent accredited body and it can be issued after testing only the samples. In this view of the matter, there is no substance in the argument of the petitioner that the tender prescribed the requirement of a certificate issued by WHO or that a report given by a laboratory cannot be construed as a WHO specification certificate since the report relates to only a sample of the product or that Clause 12 (b) required the tenderer to have experience of one year of manufacturing and marketing the product under a valid WHO specification certificate. It must be noted here that the contentions based on supposed requirement of WHO certificate or certification are not to be found in the petition but they are raised during the course of arguments and appear to be by way of an afterthought.

8. As for the contention of the petitioner regarding violation of Conditions No.4 and 5 of the Special Notes of Tender Enquiry, it is true that the certificate issued by the Chartered Accountant in respect of manufacture and

sale of the product showed production and marketing of 36,000 kgs. in the last year which obviously would be upto the date of the certificate which is 15.12.2004. The affidavit dated 19.12.2004 annexed to the tender as Annexure-II in terms of Clause 12 in proof of manufacturing experience and marketing data also showed production and marketing of 36,000 kgs. for the year 2004. However, what Condition No.4 requires is authenticated documents for proof of supply of at least 50% of the quantity which in the present case is 27,650 kgs. And the requirement that the product in such quantity must have been supplied satisfactorily for malaria control programme or activities in India or abroad can hardly be certified by the manufacturer himself because whether the supply was satisfactory and whether it was intended for or used in malaria control activities can only be ascertained from the buyers. The condition No.6 of the Special Notes quoted hereinabove can be read in support of this conclusion. It is perhaps, therefore, that the authenticated documents are required in respect of supply only. That condition, therefore, does not appear to have been violated in accepting the technical bid of respondent No.2.

9. Condition No.5 of the Special Notes clearly stands modified by General Condition No.12 (b) and the requirement of satisfactory supply of 80% of the quantity indicated in the Schedule of Requirements in any one of the last few years from the date of bid opening allows inclusion of supply in the preceding twelve months from the date of opening of the tender, and in case of the current year, such date would necessarily be after the date of affidavit and certificate of the Chartered Accountant. In the facts of the present case, if the high level purchase committee constituted for the purpose of taking final decision also having the power to decide the deviations to be permitted from the terms and conditions and specifications of tender enquiry has approved and accepted as sufficient proof the documents produced by respondent No.2 to substantiate compliance with the said condition and no mala fides or irregularity is indicated, the decision ought to be accepted and not interfered by the Court in judicial review. Tender Conditions No.25 and 26 quoted hereinabove also allow such exercise of discretion.

10. As held by the Supreme Court in RAUNAQ INTERNATIONAL LTD. v. I.V.R.CONSTRUCTION LTD. [(1999) 1 SCC 492], when the State enters into a commercial transaction, there could be, in a given case, an element of public law or public interest involved. Where the

decision making process has been structured and the tender conditions set out the requirements, the Court is entitled to examine whether the requirements have been considered. However, if any relaxation is granted for bona fide reasons, the tender conditions permit such relaxation and the decision is arrived at for legitimate reasons after a fair consideration of all offers, the Court should hesitate to intervene. It is also observed that a somewhat different approach may be required in the cases of award of a contract by the Government for the purchase of items for its use. Judicial review would be permissible only on the established grounds for such review including mala fides, arbitrariness or unreasonableness of the Wednesbury variety. Earlier Apex Court had in *Tata Cellular v. Union of India* [(1994) 6 SCC 651], inter alia, concluded that the Court does not sit as a Court of appeal but merely reviews the manner in which the decision was made, and the Government must have freedom of contract. A fair play in the joints is a necessary concomitant for an administrative body functioning in an administrative or quasi-administrative sphere.

10.1 As held by the Supreme Court in *ASIA FOUNDATION & CONSTRUCTION LTD. v. TRAFALGAR HOUSE CONSTRUCTION (I) LTD.* [(1997) 1 SCC 738], judicial review of contractual transactions by government bodies is permissible to prevent arbitrariness, favouritism or use of power for collateral purposes.

10.2 In the facts of *RAUNAQ INTERNATIONAL* (supra), relaxation was permissible under the terms of the tender. The relaxation was granted on valid principles looking at the expertise of the tenderer and his past experience although it was not exactly tallying with the prescribed criteria and the party challenging the award of tender themselves did not fulfil the requisite criteria. It was found that by stopping the performance of the contract at the instance of a party which itself did not fulfil the requisite criteria and whose offer was higher than the offer which was accepted, there was a major detriment to the public. Similarly, in the facts of the present case, the petitioner, prima facie, appears to have violated important conditions of the tender insofar as "higher price/lower price certificate" required to be submitted in terms of Clause 17 (g) and 45 of the General Conditions was concerned; and the rate quoted by the petitioner was admittedly much higher.

11. The petitioner relied upon the judgment of the Supreme Court in *STATE OF U.P. v. VIJAY BAHADUR SINGH*

[(1982) 2 SCC 365] for the observations therein that, "No right accrues to a bidder merely because his bid happens to be the highest". It has also been observed in para 3 of the judgment that, "The Government had the right, for good and sufficient reason, not to accept the highest bid but even to prefer a tenderer other than the highest bidder. The judgment in G.J.FERNANDEZ v. STATE OF KARNATAKA [(1990) 2 SCC 488] was relied upon for the proposition that, "executive authority must be rigorously held to the standards by which it professes its actions to be judged and it must scrupulously observe those standards on pain of invalidation of an act in violation of them. If the standard or norm was reasonable and non-discriminatory and once such a standard or norm was laid down, the authority was not entitled to depart from it and to award the contract to a party who did not fulfil the condition of eligibility prescribed by the standard or norm".

After the above observations quoted from Ramana Dayaram Shetty v. International Airport Authority of India [(1979) 2 SCC 489], it is held that:

"But we are inclined to agree with the respondent's contention that while the rule in Ramana case (supra) will be readily applied by courts to a case where a person complains that a departure from the qualifications has kept him out of the race, injustice is less apparent where the attempt of the applicant before court is only to gain immunity from competition. Assuming for purposes of argument that there has been a slight deviation from the terms of the NIT, it has not deprived the appellant of its right to be considered for the contract; on the other hand, its tender has received due and full consideration.....The appellant had no doubt also urged that the MCC had no experience in this line of work and that the appellant was much better qualified for the contract. The comparative merits of the appellant vis-a-vis MCC are, however, a matter for the KPC (counselled by the TCE) to decide and not for the courts....."

12. In KONARK INFRASTRUCTURE PVT.LTD. v. COMMISSIONER, ULHASNAGAR MUNICIPAL CORPORATION [AIR 2000 BOM. 389], the municipal corporation had invited tenders for collection of octroi with eligibility criteria comprising of minimum annual turnover of 50% of the tender value and net wealth of the offerer to be not less

than 10% of the tender value. The highest bidder did not fulfil the eligibility conditions relating to turnover and net wealth and a decision was taken by the State Government to delate the tender conditions relating to turnover. In that context, the Court observed that the municipal corporation was bound to consider each bid in terms of the tender conditions which had been prescribed and which were in existence on the date prescribed for the submission of offers. Even if the tender conditions were to be relaxed thereafter, the benefit of relaxation could not have been made available only to the existing bidders since the relaxation operated to widen the field of eligibility and competition. When that case was carried to the Supreme Court, it was held by the Supreme Court that the course adopted by the High Court in the circumstances was justified because by reason of deletion of a particular condition, a wider net will be permissible and more attractive bids could be offered.

12.1 The learned counsel for the petitioner also relied upon the judgment of the Supreme Court in LAXMI SALES CORPORATION v. BOLANGIR TRADING CO. [(2005) 3 SCC 157] wherein it is observed that Annexures-I & J to the tender were essential requirements of the tender and Annexure-J specifically required at serial No.7 the proof of turnover of the firm over the last two relevant years with supporting documents as also proof of work experience and the check list had specifically mentioned that the production of proof of turnover with latest profit and loss account duly certified by a Chartered Accountant was a mandatory requirement. The certification by a Chartered Accountant was alleged to be not genuine and that allegation was not rebutted by the respondent concerned. In that factual background, it was held that the High Court was not justified in allowing the writ petition as the High Court had misread the material on record and had committed factual error based on which the relief was granted.

13. The aforesaid two judgments of the Supreme Court in KONARK INFRASTRUCTURE (supra) and LAXMI SALES CORPORATION (supra) are clearly distinguishable on facts since in the facts of the present case the respondent appears to have fulfilled the requirements of the tender even without any deviation or relaxation and the decision making process appears to be structured, fair and reasonable. We are, therefore, not inclined to interfere with the grant of contract for purchase of the insecticide to respondent No.2 and the petition is accordingly rejected. Notice is discharged with no order as to costs.

Sd/- Sd/-

(M.S.Shah, J.) (D.H.Waghe la, J.)

(KMG Thilake)